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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO.   |
|--|-------------|----------------------|-------------------------------|--------------------|
| 09/780,943   | 02/09/2001  | Timothy A.M. Chuter  | ENDOV-56584(E0025)            | 1704               |
| 24201  | 7590        | 12/22/2003           |                               |                    |
| FULWIDER PATTON LEE & UTECHT, LLP<br>HOWARD HUGHES CENTER<br>6060 CENTER DRIVE<br>TENTH FLOOR<br>LOS ANGELES, CA 90045 |             |                      |                               |                    |
|  |             |                      | EXAMINER<br>ISABELLA, DAVID J |                    |
|  |             |                      | ART UNIT<br>3738              | PAPER NUMBER<br>17 |
| DATE MAILED: 12/22/2003  |             |                      |                               |                    |

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/780,943

Applicant(s)

CHUTER, TIMOTHY A.M.

Examiner

DAVID J ISABELLA

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-42 is/are pending in the application.
- 4a) Of the above claim(s) 8, 15, 17-26 and 28-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9-14, 16 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, 16 and 27 are rejected under 35 U.S.C. 102(a) as being anticipated by Wisselink (5984955).

Wisselink discloses a system for grafting branched vessels including a main component having at least four apertures and at least two extensions configured to sealingly engage with a corresponding aperture. As broadly worded the claims fails to define over Wisselink. The main component may be considered to be element 12 and element 42, while attached to the main body may be broadly interpreted as an extension portion of the main body. The claims as broadly worded does not preclude an extension portion off the main body.

Claims 2, 3, 4, 5, 16 and 27, see column 11, lines 10+.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,9,10,11,12,13,14,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wisselink as applied to claim 1 above, and further in view of Piplani, et al.

Wisselink uses generically defined anchoring devices 18 and 20. Piplani, et al teaches that the anchoring device as claimed is known in the art and does not form the basis of the invention. To use the anchoring device as shown in Piplani,et al as a specific device for the generically defined devices of Wisselink would have been obvious to one with ordinary skilled in the art based upon surgical considerations.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,7,9-14,16 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vardi, et al (6210429) in view of any of Wisselink (5984955), Houser,et al and Dehdashtian (6344056).

Vardi, et al discloses a system for treating vasculature including a main component and a plurality of extension components. The extension components have support structure attached to the midsection. Vardi, et al fails to disclose a specific number of apertures that are formed in the main component but Vardi, et al does allow for any number of apertures greater than one. Column 4, lines 60+ Vardi, et al teaches that the stent apparatus should have at least one side opening and the vessel may include coronary, renal, peripheral vascular, gastrointestinal, pulmonary, urinary and neurovascular systems. Each of Wisselink, Houser, et al and Dehdashtian teach vessels with a plurality of side branches including "at least four". If not inherent in Vardi, et al to employ a vessel with at least four openings to match the particular natural vessel whether vascular, renal, gastrointestinal would have been obvious from the teachings of the secondary references.

Claim 2, the delivery catheter 48 of Vardi, et al is sized to releasably receive and deliver the main component.

Claim 3, the delivery catheter 25 of Vardi, et al includes structure that receives at least one extension.

Claim 4, see releasing structure balloon 24 of Vardi, et al.

Claim 5, see rejection to claim 1 supra.

Claim 7, see anchoring device 12 of Vardi, et al.

Claim 9, see element 15 of Vardi, et al.

Claims 10-13, see column 11, lines 38+ and figure 1 of Dehdashtian .

Claim 14, see element 18 of Vardi, et al

Claim 16, see either of Houser, et al or Wisselik.


Claim 27, see column 8, lines 25+ of Vardi, et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Isabella whose telephone number is 703.308.3060. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on Monday-Friday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

dji  
December 10, 2003



David J. Isabella  
Primary Examiner